

REMARKS

No amendments have been made to the claims with the current Reply. The listing of the claims provided above is solely for the convenience of the Examiner. A detailed listing of all claims that are under examination in the application is presented above, with an appropriate defined status identifier.

Claims 45-49 and 51-56 are pending in the application, with claims 45 and 53 being the independent claims. Claims 1-44 and 50 were canceled by previous amendment without prejudice to or disclaimer of the subject matter therein.

Applicants respectfully request reconsideration of the present application in view of the reasons that follow.

I. Claim Rejections Under 35 U.S.C. § 102

Claims 45-49, 52, 53 and 55 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Wong *et al.*, U.S. Pat. No. 5,986,065 ("Wong"). (Office Action, at page 2, lines 19-20.) Applicants respectfully traverse this rejection.

Applicants respectfully submit that Wong fails to teach the method of suppressing "hypertrophy of the vascular intima caused by tissue expression" in a patient as recited in claims 45-49, 52, 53 and 55, because Wong describes the prevention of thrombosis and blood clotting only.

Restenosis is the name given to the formation of new blockages within an artery, after the artery has been treated with angioplasty or stenting. For example, restenosis is the renarrowing of a coronary artery after angioplasty.

As a person skilled in the art of medicine would know, restenosis can occur either early or late. Early restenosis is usually due to a tear in a plaque caused by the trauma of the angioplasty procedure itself. This tear can cause blood clots to form within the artery (thrombus), or bleeding into the wall of the artery, either of which can cause acute blockage of the artery. In contrast, late restenosis is usually caused by the growth of new tissue at the site of the angioplasty and can be thought as an "over exuberant" healing process.

As discussed in Applicants' Amendment and Reply filed December 1, 2008, Wong describes early restenosis and a method of treating the formation of thrombi associated with early restenosis. See, e.g., Wong, at column 1, lines 34-36, and at column 3, lines 17-20, in

which restenosis is referred to as a special type of thrombosis. Wong does not disclose or suggest late stage restenosis, or “hypertrophy of the vascular intima caused by expression of tissue factor” as presently claimed.

Applicants’ present claims are directed to a method of treatment of hypertrophy of the vascular intima in a patient in need thereof and are thus clearly directed to administering an antibody to treat late stage restenosis caused by expression of tissue factor in a patient – not to treat the thrombus formation of early stage restenosis, as disclosed in Wong. Treating a condition caused by tissue factor expression is manifestly different than Wong’s early stage treatment. The presently claimed method relates to distinct treatment for a patient “in need thereof,” which requires the USPTO to give weight to the specific use recited in the claim’s preamble. See *Jansen v. Rexall Sundown, Inc.*, 342 F.3d 1329 (Fed. Cir. 2003).

Thus, Wong fails to teach the recited method. As a consequence, it cannot anticipate the present claims.

Applicants also note that the present claims are directed to a new method of treatment which has not been known in the state of the art, and are not directed to antibodies per se. As previously discussed in Applicants’ Amendment and Reply filed December 1, 2008, the influence of inhibitory TF antibodies on the proliferation of vascular intima tissue was not known until the present invention was made.

Applicants respectfully disagree with the statements made by the Office that “the usefulness of anti-TF antibodies in treating restenosis following angioplasty was recognized in the prior art (US 6,287,794, col. 3, lines 4-21).” (Office Action, at page 4, lines 1-3.) The passage cited from US 6,287,794 refers to use of anti-TF antibodies as anticoagulants and states, at col. 3., lines 8-10, that use of such antibodies “is an extremely effective means of controlling thrombus formation caused by acute arterial injury” The cited passage does not refer to use of anti-TF antibodies to suppress hypertrophy of vascular intima tissue, as recited in the present claims.

Applicants believe that the rejection of claims 45-49, 52, 53 and 55 under 35 U.S.C. § 102 has been overcome and request that this rejection be withdrawn.

II. Allowable Subject Matter

Claims 51, 54 and 56 are objected to as being dependent upon a rejected base claim, but, according to the Office, would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. (Office Action, at page 4, lines 5-7.)

Applicants wish to thank the Office for finding claims 51, 54 and 56 to be allowable if rewritten in independent form. Applicants request that the Office hold this objection in abeyance until it fully reconsiders Applicants arguments above concerning the rejection of claims 45-49, 52, 53 and 55.

CONCLUSION

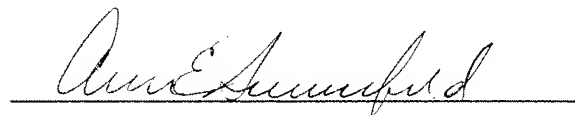
Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date March 23, 2009

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5300
Facsimile: (202) 672-5399



Ann E. Summerfield
Attorney for Applicants
Registration No. 47,982